1949.

File No. Essen Co...

Legal Department II

B BRANCH

Subject:—

Notification under the Bombay Essential Commodities and Cattle (control) Act 1946

E. 1949 page 15

File No. Essen. Commodities II/49(N)

Gen. 196

129-B

Legal Department.

After the Order is amended, as proposed by A. & R.D.D., an animal above the age of 15 years can be slaughtered for bonafide religious purposes without a certificate from a Veterinary Officer. Section 7, 1 however, of the Bombay Essential Commodities and Cattle (Control) Act, 1946, provides that any order made under section 4 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act. In virtue of these provisions, the Order would prevail over the provisions of section 5 of the Bombay Animal Preservation Act, 1948 when it will be brought into force into any area and therefore an animal over the age of 15 years can be slaughtered in such area without a certificate from a Veterinary Officer. If therefore it is intended to bring the provisions of sections 2 to 14 of the Bombay Animal Preservation Act into force into various areas of the Province, it will be desirable to regulate the slaughter of animals by the provisions of the Act and not by the amendment of the Order issued under the Bombay Essential Commodities and Cattle (Control) Act, 1946.

Id/-J.R.D. 15/2
Additional Secretary to
Government.

U.R. to A. & R.D.D., No. 1812 ,dated the 15th February 1949.

BKS. 8/6/ 4c.

11/6

11/6

Legal Department.

A revised draft Order is sent herewith subject to the following observations. A revised form of draft direction is also sent herewith.

Clause 2.- A new sub-clause (3) has been added to this clause on the lines of clause 8(2) of the Sugar and Sugar Products Control Order, 1943. It provides that a permit issued shall be returned to the Permit officer on completion of despatch or on the expiry of the period of the validity of the permit.

Clause 6.- Sub-clause (b) of this clause as proposed by A.R.D.D. is ultra vires under clause 4 read with section 10(2) of the Bombay Essential Commodities and Cattle Control Act, 1946, which does not empower the Provincial Government to forfeit any article if a contravention of the order is made. The sub-clause has been recast so as to be consistent with the provisions of the Act.

Clause 8.- This clause is redundant in view of the provisions of section 10 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, and has therefore been deleted.

Schedule II.- The permit has been endorsed to the three officers specified at the end of the form of permit with an intimation that officer concerned is to accept for transport the consignment of groundnut oil cakes mentioned in the permit. The order itself does not provide that the officer in charge of transport shall not accept unless accompanied by a permit any consignment of gm groundnut oil cakes by rail or sea. No such provision can therefore be made in the permit. Only a copy of the permit may be endorsed to the officers intended.

The Order should be published in the manner required by section 6 of the Act.

The references pending in H.L.A's office are

returned herewith as desired by A.H.D.D.

Id/-J.R.D. 11/2
Additional Secretary to Government.

U.R. to A. & R.D.D., No. 1658

dated the 11th February 1949.

BKS. 8/6/ 4c.

Agriculture and Rural Development Department.

Bombay Castle, February 1949.

ORDER.

Bombay Essential Commodities and Cattle (Control) Act, 1946.

No.1623-H(b).- In exercise of the powers conferred by section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom.XXII of 1946), read with the Government of Bombay, Civil Supplies Department, Orders No.1016/II, dated the 1st June 1948 and No.1020/II, dated the 14th June, 1948, the Government of Bombay is pleased to direct that every person in charge of an oil mill, run on power machinery (i.e. expellers, rotaries and hydraulic presses) in the Province of Bombay including the Indian States specified inthe Schedule appended hereto shall, on every Monday beginning with the 21st February 1949, furnish to the Secretary to Government of Bombay, Agriculture and Rural Development Department, Bombay, a full and correct statement in the form appended hereto of the stocks of groundnut oilcakes held by him, whether on his own account or on account of any person owning the mill or on account of, or in partnership with, any other person, on the Saturday immediately preceding such Monday. Copies of such statements shall also be sent as soon as may be to the Collectors of the districts or the Chiefs Administrators of the areas, as the case may be, in which the mill is located.

2. In the City of Bombay and the Bombay Suburban District, the Secretary to the Government of Bombay, Agriculture and Rural Development Department Bombay, or the officers authorized by him, and elsewhere, the Revenue Officers of and above the grade of Mamlatdars or the District Agricultural Officers within their respective

jurisdictions may enter and search any premises or seize any articles in respect of which they have reason to believe that a contravention of this Order has been is being or is about to be committed.

Schedule.

1. Akalkot.	18.Balasinor.	35.Bhaderva.
2. Aundh.	19.Chota-Udaipur.	36.Mohampur
3. Bhor.	20.Lunawada.	37.Malpur.
4. Jankhandi.	21.Rajpipla(including Sagbara).	38.Mansa.
5. Jath.	22.Baria.	39.Wao.
6. Kurundwad (Junior).	23.Baneda.	40.Khadal.
7. Kurundwad. (Senior).	24. Sant.	41.Ghodasar.
8. Miraj (Junior)	25. Cambay.	42.Vasna.
9. Miraj (Senior)	26. Idar.	43.Katosan.
10. Mudhol.	27. Jawhar.	44.Sudasna.
11. Phaltan.	28. Vijayanagar.	45.Valasna.
12. Ramdurg.	29. Sachin.	46.Ranasan.
13. Sangli.	30. Radhanpur.	47.Varsoda.
14. Savanur.	31. Palanpur.	48.Ambaliara.
15. Sawantwadi.	32. Jambughoda.	49. Punadra.
16. Wadi.Jagir.	33. Surgana.	50. Ilol.
17. Dharampur.	34. Tharad.	51.Sanjeli.
		52. Janjira.

Form of statement showing the stock position of groundnut oilcakes for the week m ending on Saturday the .....

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Name of the Oil Mill.....

Address.....

Item	Tons.	Cwts.	Qrs.	lbs.
1. Balance at the end of the previous week as shown under item 4 of the last return				

Note:- In the case of the return to be made on the 21st February

1949 ; the balance under ~~item~~ item 1 shall be as it stood on the 12th February 1949.

2. Production during the week ending on .....

Item.	Tons.	Cwts.	Qrs.	lbs.
~~3~~ 3. Quantity sold and delivered during the week ending on				
4. Balance at the end of the week ending on i.e. items (1-2)- item (3)				

Remarks.

Date.....194

Signature of the person in charge of the oil mill

By order of the Governor of Bombay,

D.N. Mahta,
Secretary to Government.

BKS. 8/6/ 4c.

Legal Department.

A revised draft Order is sent herewith subject to the following observations:-

Preamble.- The Order is shown to extend to the Danta State. Unless the Bombay Essential Commodities and Cattle (Control) Act, 1946, is extended tothe Danta State under section 4 of the Extra Provincial Jurisdiction Act, 1947, it will not be competent for Government to extend the proposed order to that State. The name of the Danta State has,however, been retained on the assumption that the necessary order will be issued by the Civil Supplies Department in respect of that State. In that case the particulars of such order should be inserted inthe Preamble before the Order is issued.

Clause 1.- The title of the Order has been changed by dropping the words "and Acquisition" as the proposed Order nowhere provides for the acquisition of cotton by Government.

Clause 2.- Instead of referring to the ceiling price as fixed by the Textile Commissioner in the General Permission No.214-TA/45(ii), dated the 29th December 1945 issued in pursuance of clause 5 of the Indian Cotton (Control) Order, 1945, the order itself should specify the ceiling price for the benefit of the public. The definition of "Ceiling price" has accordingly been recast. The Finance Department proposes to issue an order corresponding to the Bombay Cotton Licensing Order, 1949, in respect of Indian States. It is therefore necessary to refer to the Indian States Cotton Licensing Order, 1949, in the definition of "Licensing Authority."

Clause 6.- The powers conferred upon the Licensing Authority by the Bombay Cotton Licensing Order, 1949, referred to in clause 6 of the draft Order are the powers to enter upon, inspect and search any premises. The same powers may be repeated in the proposed Order.

Clause 6 has accordingly been recast.

Clause 8. It is not necessary to provide for the forfeiture of cotton in view of the specific provision for forfeiture contained in section 10(2) of the Bombay Essential Commodities and Cattle (Control) Act, 1946. and the said clause has therefore been deleted.

Id/-J.R.D. 18/3
Additional Secretary to Government.

U.R. to F.D.,No.187-Comfl, dated the 19th March 1949.

BKS. 8/6/ 4c.

Legal Department.

The view taken by the A.R.D.D. is correct. It is not, however, necessary to amend, as proposed by the A.R.D.D. the Bombay Ground-nut Oilcakes (Regulation of Trade and Movement) Order, 1949, by adding the Kolhapur State in the Schedule to the said Order. Para. 3 of the Kolhapur State (Application of Laws) Order, 1949, provides that the Bombay Essential Commodities, and Cattle (Control) Act, 1946, and all notifications, orders etc. issued thereunder shall extend to and be in force in the Kolhapur State. The Bombay Groundnut Oilcakes (Regulation of Trade and Movement) Order, 1949, being an order issued under the said Act is in force in the Kolhapur State. Sub-para. (2) of para. 3 of the Kolhapur State (Application of Laws) Order, 1949 provides as to how the orders are to be construed. The Order under consideration which extends to the Province of Bombay is therefore to be construed as extending to the Province of Bomby and the Kolhapur State. No further notification by way of amending the Bomaby Ground-nut Oilcakes (Regulation of Trade and Movement) Order, 1949, is therefore necessary unless the part of the Order is found to be unsuitable from the administrative point of view.

Sd/-J.R.D. 21/5
Additional Secretary to Government.

U.R. to A.R.D.D. No. 5706 ,dated the 23rd May 1949.

BKs. 8/6/ 4c.

Legal Department.

Para. 1 of A.S.A.R.D.D's note at page 99:-

Even after the proviso (a) to the Government Notification No. 298,-D, dated the 23rd August 1948 is deleted as proposed by the Agriculture and Rural Development Department the rest of the Order would in some respects, as shown below, be inconsistent with the provisions of the Bombay Animal Preservation Act, 1948; and being an order made under the Bombay Essential Commodities and Cattle (Control) Act, 1946, will prevail over the former Act. Under the order no certificate from a Veterinary Officer is necessary for determining whether the slaughter comes within the mischief of the order. It is therefore desirable, as pointed out in L.D.U.R. No. 1812, dated the 15th February 1949, to regulate the slaughter of animals by the provisions of the Bombay Animal Preservation Act, 1948.

Para. 2 of A.S.A.R.D.D's. note:- The order in question extends to the Province of Bombay; whereas sub-section (3) of section 1 of the Bombay Animal Preservation Act, 1948, empowers the Provincial Government to bring sections 2 to 14 of the Act into force insuch area and on such date as may be specified in the notification. The Order should not therefore be cancelled totally. It should be cancelled simultaneously in the areas where the provisions of the Act will be brought into force leaving the order to operate in the area wherein sections 2 to 14 of the Act have not been brought into force.

Id/-J.R.D. 24/5
Additional Secretary to
Government.

U.R. to A.& H.D.D. No. 58/34 , dated the 25th May 1949.

BKS. 8/6/ 4c.

Legal Department.

The intention of the Agriculture and Forest Department seems ~~x~~ not to prohibit or regulate the movement of groundnut oil cakes by road from one place to another within the same district. It is also the intention not to prohibit or regulate the inter district movement of oil cakes by road. The draft Order at page 17 has accordingly been amended. Under the draft Order ~~xhxpmgm~~ it will not be possible to prohibit the export of oil cakes to a place outside the Province of Bombay, say, Goa. No power can also be taken in an Order issued under the Bombay Essential Commodities and Cattle (Control) Act, 1946 whereby the export of oil cakes outside the Province of Bombay can be banned, for such an order as already stated would offend against the provisions of section 297 of the Government of India Act, 1935.

Id/-J.R.D. 19/8
Additional Secretary to Government.

U.R. to A. & F.D. No.529-Confl., dated the 19th August 1949.

BKS. 8/8/ 49.

Legal Department.

The draft notification at page 15 ante as amended is in order.

2. In addition to the two orders proposed to be cancelled by the Finance Department it is also necessary to cancel the third order made under Finance Department Notification No. 7433/33-L(1), dated the 2nd May 1949, by which the Bombay Cotton Licensing Order, 1949, has been extended to the Indian States merged in the Province of Bombay. A draft order for this purpose is sent herewith.

Id/-J.R.D. 15/9
Additional Secretary to Government.

U.R. to F.D. No. 591-Confl., dated the 16th September 1949.

BKS. 6/6/ 4c.

Legal Dep Department.

A revised draft Order to be served on Messrs. General Stone Co. is sent herewith.

2. It is presumed that Messrs. General Stone Co., Bombay, are carrying on inter alia the business of supplying cement to consumers. If so, it is competent for the Provincial Government under clause (h) of sub-section (2) of sec.4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, to require the Company to furnish to Government the information relating to their business. As section 4 of the Act provides for making an order under a notified Order as defined in clause (5) of section 2 of the Act it is necessary to publish the order in the Bombay Government Gazette. Unless that is done no valid order m shall be deemed to have been made under the Act. After such a valid order has been made, sec. 6 (1)(b) of the Act further requires that if the order made under section 4 is an order affecting a firm it shall be served in the manner provided for the service of a summons in rule 3 of Order 30 in the First Schedule of the Code of Civil Procedure.

3. As the information required from the Messrs. General Stone Co. is to be given to the Government, it is provided in the order that the information shall be furnished to be Secretary to Government, Labour Department, within six days from the service of the order.

Id/-J.R.D. 22/9
Additional Secretary to Government.

U.R. to Labour Department No. 10748 dated 26th September 1949.

BKS. 8/6/ 4c.

A revised draft Order to be served on Messrs. General Stone Co. is sent herewith.

2. It is presumed that Messrs. General Stone Co., Bombay, are carrying on inter alia the business of supplying cement to consumers. If so, it is competent for the Provincial Government under clause (h) of sub-section (2) of sec.4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, to require the Company to furnish to Government the information relating to their business. As section 4 of the Act provides for making an order under a notified Order as defined in clause (3) of section 2 of the Act it is necessary to publish the order in the Bombay Government Gazette. Unless that is done no valid order x shall be deemed to ha been made under the Act. After such a valid order has been made, sec. 6 (1)(b) of the Act further requires that if the order made under section 4 is an order affecting a firm it shall be served in the manner provided for the service of a summons in rule 3 of Order 30 in the First Schedule of the Code of Civil Procedure.

3. As the information required from the Messrs. General Stone Co. is to be given to the Government, it is provided in the order that the information shall be furnished to be Secretar to Government, Labour Department, within six days from the service of the order.

Id/-J.R.D. 22/9
Additional Secretary to Government.

U.R. to Labour Department No. 10748 dated
26th September 1949.

BKS. 8/6/ 4c.

Labour Department,

Bombay Castle, September 1949.

ORDER.

No. .- In exercise of the powers conferred by section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946 (Bom.XXII of 1946),the Government of Bombay is pleased to direct that Messrs. General Stone Co., Bombay, shall furnish the following informationto the Secretary to Government, Labour Department, within six days from the date of the service of this order, namely :-

1. The quantity of cement purchased by them from Messrs. Eastern Export Company (Bombay),Ltd., Bombay,between 1949 to

2. The rate at which the cement was, if any, supplied to them by the Eastern Export Company (Bombay), Ltd., Bombay , or the landing cost thereof including the C.I.F. value, import duty and Port Trust and other charges.

3. If any such cement has been sold by them, the name and address of each person to whom it was sold and the quantity sold to each and the price charged therefor.

4. Whether such cement was sold against any permit issued by the Regional Honorary Cement Adviser, Bombay, and if so, theparticulars of such permit.

By order of the Governor of Bombay,

Secretary to Government.

To

Mr. Bhagwandas Vensimal,
Proprietor,
Messrs. The General Stone Co.,
496, Duncan Road, New Hull
Bazar, Bombay.

BKS. 8/6/ 4c.

Legal Department.

The Foreign Cotton Control Order, 1945 was issued under rule 81(2) of the Defence of India Rules. As the Government of Bombay was in favour of continuing control in respect of raw-cotton, the item "cotton(ginned or unginned)" was added to the Schedule of the Bombay Essential Commodities and Cattle (Control)Act,1946, with a view to continuing the Foreign Cotton Control Order, issued under the Defence of India Rules. Till 4th June 1949 'Raw Cotton' was not covered by the Essential Supplies (Temporary Powers) Act,1946, as that commodity was not included in the Concurrent Legislative list by the India (Central Government and Legislature) Act,1946 (9 and 10 Geo.Ch,39). The India Act referred to has been recently amended by the Constituent Assembly Act III of 1949. That Act empowers now the Central Government promulgated an Ordinance No.XIV of 1949 whereby the following sub-clause namely "(11A) raw cotton" was inserted in clause (a) of section 2 of the Essential Supplies (Temporary Powers)Act, 1946. The effect of this provision is that "raw cotton (including ginned cotton and unginned cotton)" will have to be considered as included in section 2 of the said Act since the date that Ordinance was passed. That being the position, the notification issued by the Bombay Government by which "raw cotton (ginned or unginned)" has been included in the Schedule of the Bombay Essential Commodities and Cattle (Control)Act,1946 has become ineffective from that date. Any Order in respect of raw cotton (ginned or unginned) will now have to be issued by the Central Government under the Central Act, namely the Essential Supplies (Temporary Powers) Act, 1946, unless the Central Government delegates their functions under section 3 of the Act to the

Provincial Government under section 4 of the Act.

The draft Order at page 7 ante will now, therefore, have ~~am~~ to be issued by the Central Government under the Central Act.

In the alternative the Central Government may be requested to delegate their powers of making Orders under section 3 in respect of raw cotton to the Provincial Government and then to issue the Foreign Cotton Control Order afresh under the Central Act.

Id/-J.R.D. 1/9
Additional Secretary to Government.

U.R. to F.D.No. 9941 , dated the 1st Sept 1949.

BKS. 8/6/ 49.

NOTIFICATION.

Labour Department

Bombay Castle, December 1949.

Bombay Cement (Price, Distribution and Movement) Control Order, 1949.

No. .-In pursuance of clause 3 of the Bombay Cement (Price, Distribution and Movement) Control Order, 1949, the Government of Bombay is pleased to appoint the officers specified in column 1 of the Schedule appended hereto, to be the cement authorities for the purposes of the said Order having jurisdiction in the areas specified against them in column 2 thereof.

SCHEDULE.

1	2
1. The Regional Honorary Cement Adviser to Government of India, Bombay,	Province of Bombay.
2. The Joint Provincial Rationing Officer (Cement), Bombay,	Greater Bombay.
3. Collectors.	Within their districts.

By order of the Governor of Bombay,

Secretary to Government.

BKS. 9/6/ 40.

Legal Department.

The revised Order sent herewith has been settled in consultation with the Deputy Secretary, Labour Department.

(1) Draft clause 15 has been deleted as the prohibition on export of cement outside the Province by an order under a Provincial law would offend against the provisions of Sec.297 of the Government of India Act, 1935.

(2) Draft clause 17 reproduces the provisions of clause (d) of sub-sec. (2) of sec. 4 of the B.C.C. (Control) Act, 1946. Similarly the freezing order of the nature prescribed in draft clause 18 can be issued either by Government or the cement authorities under sec.4(2) of the said Act if the latter are delegated the the powers under sec.8 of the said Act. As there is already provision in the Act, the officers concerned may be delegated the power under sec.8 of the Act under that clause. They would, in that case, be competent to issue an order when the occassion arises for such order

2. As the proposed order also provides for the fixing of maximum price of cement and an incidental provision of issuing of a cash memo. the existing order at pp.41-43 fixing such maximum price may be reissued under a notification under clause 10 of the Order. Para. 2 of each of the said two orders which prohibits the sale of cement except under an authority would conflict with clause 5 of the proposed Order and needs to be cancelled. The better course would be to issued similar orders regarding maximum price under the proposed order. Two such notifications are sent herewith. The Labour Department may verify whether they carry out the intentions.

3. A revised draft appointing cement authorities

under clause 3 of the order is sent herewith. The Labour Department should verify that the Central Government have no objection to their officer exercising powers under the Provincial Act.

Id/-J.R.D. 7/12
Additional Secretary to Government.

U.R. to Labour Department, No. 14214 ,dated the 8th December 1949.

BKS. 9/6/ 4o.